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September 10, 2004
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/816,905
(Attorney Docket No. GP-301003)

Filed March 26, 2001

David E. Creamer et al.

Group 3624

COMMERCIAL MORTGAGE
CLOSING PROCESS

Examiner Akers, Geoffrey

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

Sir:

BRIEF FOR APPELLANT GENERAL MOTORS

General Motors is filing in triplicate this Brief to support the Appeal of Claims 1-24 which the Office Action dated March 9, 2004, finally rejected. Please charge the fee required by this Brief and any extension fees to Deposit Account No. 07-0960.

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I. REAL PARTY IN INTEREST

In this appeal the real party of interest is the assignee, General Motors Corporation.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

III. STATUS OF CLAIMS

Claims 1-24 are under final rejection and are on appeal.

IV. STATUS OF AMENDMENTS

General Motors has filed no amendments since the final rejection of May 9, 2004.

V. SUMMARY OF INVENTION

Below is a Brief Summary discussing the objective features and advantages of the invention. Following the Brief Summary is a detailed summary complying with 37 C.F.R. 1.192(c)(3).

A. BRIEF SUMMARY

The present invention is a streamlined method for processing and closing commercial loans. The method is based on “frontloading” data retrieval and task executions, simultaneously executing required tasks for processing a commercial loan, and/or balancing risk versus the time needed to process a commercial loan. The method of the present invention also helps to eliminate the gathering and analysis of non-value added information processing to shorten the loan processing time.

The present invention further leverages the worldwide-web/internet as an information gathering and processing tool to quickly compile borrower information and compares the information to the lending programs of various large funding sources. The method of the present invention further engages third-party vendors early in the loan process. By integrating third-party vendors, all parties involved may execute tasks in parallel, removing critical paths to shorten

loan processing times. Furthermore, the method of the present invention bypasses some of the traditional checks in the commercial mortgage industry by relying on insurance policies and eliminating steps that have been statistically demonstrated to only slightly increase risk.

B. DETAILED SUMMARY

Claim 1 recites a method for processing a loan (page 2, lines 18 through page 3, line 8; page 3, lines 15- 18; Figures 1A-1L) comprising the steps of: partnering with a third-party service provider (page 7, lines 20-25 and 26-30; page 9, lines 8-12; page 10, lines 25-27; page 12, lines 19-23; page 14, lines 4-6; page 16, lines 9-12; page 17, lines 8-11; and Figures 1C-1L) providing a loan production team (page 7, lines 20-25; page 8, lines 8-26; page 9, lines 23-27; page 10, line 27 through page 11, line 19; page 12, line 24 through page 13, line 7; page 15, lines 3-17; page 16, lines 14-23; page 17, lines 14-20 and Figures 1C-1L) providing a loan closing team (page 7, lines 20-25; page 8 lines 27-30; page 10, lines 6-14; page 11, line 20 through page 12, line 4; page 13, lines 9-19; page 14, lines 14-24; page 15, lines 18-27; page 16, lines 24-30; page 17, lines 21-27 and Figures 1C-1L); gathering loan information on-line (page 3, lines 15-20 and Figure 1A), said loan information provided to said third-party service providers (page 7, lines 20-25 and 26-30; page 8, lines 1-5; page 9, lines 8-12; page 10, lines 25-27; page 12, lines 19-23; page 14, lines 4-6; page 16, lines 9-12; page 17, lines 8-11; and Figures 1C-1L), said loan production team, and said loan closing team (Figures 1C-1L); and concurrently executing tasks by said third-party service providers, said loan production team, and said loan closing team to close the loan (Figures 1C-1L illustrate the days and concurrent tasks).

Claims 2 recites the method of Claim 1 wherein the step of partnering third-party service providers comprises partnering with a title company (page 7, lines 20-25; page 8, lines 28-30 and Figures 1C-1L).

Claim 3 recites the method of Claim 1 wherein the step of partnering third-party service providers comprises partnering with an engineering company (page 10, lines 19-25 and Figures 1C-1L).

Claim 4 recites the method of Claim 1 wherein the step of partnering with a third-party service provider comprises establishing a communication link with said third-party service provider to enable said third-party service provider to receive said loan information within 24 hours (page 9, lines 3-11 and Figure 1C day 0).

Claim 5 recites the method of Claim 1 further comprising the step of said loan production team reviewing appraisal, environmental, and engineering information (page 9, lines 23-29 and Figure 1D day 1).

Claim 6 recites the method of Claim 1 further comprising the step of said closing team drafting a loan document (page 10, lines 6-14 and Figure 1D day 1).

Claim 7 recites the method of Claim 1 wherein the step of gathering loan information on-line comprises providing a web site for borrowers and brokers to access a loan application (page 3, lines 15-26 and Figure 1A).

Claim 8 recites the method of underwriting a commercial loan (page 2 lines 18 through page 3, line 8; page 3, lines 15- 18; Figures 1A-1L) comprising: accessing borrower loan information (page 3, lines 15-30); accessing lender loan information (page 4, lines 5-14); providing a signed loan application in under 72 hours using said borrower and lender loan information (pages 3-5 and Figure 1A); generating an appraisal in under 96 hours (page 13, line 30 and Figure 1F) ; evaluating title and credit of said borrower in under 96 hours (page 11, lines 1-10 and Figure 1E); and closing said loan in under 240 hours (Figures 1C-1L).

Claim 9 recites the method of Claim 8 wherein said step of accessing borrower information is done via the internet (page 3, lines 15-20 and Figure 1A).

Claim 10 recites the method of Claim 8 wherein said step of providing a signed loan application is executed by a production team (page 7, lines 20-25; page 8, lines 8-26; page 9,

lines 23-27; page 10, line 27 through page 11, line 19; page 12, line 24 through page 13, line 7; page 15, lines 3-17; page 16, lines 14-23; page 17, lines 14-20 and Figures 1C-1L).

Claim 11 recites the method of Claim 10 wherein said step of evaluating said title and credit of said borrower is executed by a production team (page 7, lines 20-25; page 8, lines 8-26; page 9, lines 23-27; page 10, line 27 through page 11, line 19; page 12, line 24 through page 13, line 7; page 15, lines 3-17; page 16, lines 14-23; page 17, lines 14-20 and Figures 1C-1L).

Claim 12 recites the method of Claim 11 further comprising said closing and production teams executing tasks in parallel (Figures 1C-1L illustrate the days and concurrent tasks).

Claim 13 recites the method of Claim 12 further comprising the step of partnering third-party service providers to execute tasks in parallel with said production and closing teams (Figures 1C-1L illustrate the days and concurrent tasks).

Claim 14 recites the method of Claim 13 wherein said third-party service providers comprise at least a title company (page 7, lines 20-25; page 8, lines 28-30 and Figures 1C-1L).

Claim 15 recites a method of online loan processing (page 2 lines 18 through page 3 line 8; page 3, lines 15- 18; Figures 1A-1L) comprising: providing a website to compile borrower loan information and interact with said borrower page 3, lines 15-20 and Figure 1A); providing a selection of applicable loan programs based on said borrower information (page 3 through page 5); selecting an expedited process based on said borrower input (page 5 lines 14-20 and Figures 1A and 1B); reviewing a loan inquiry (page 3, lines 15-30); providing a loan production team (page 7, lines 20-25; page 8, lines 8-26; page 9, lines 23-27; page 10, line 27 through page 11, line 19; page 12, line 24 through page 13, line 7; page 15, lines 3-17; page 16, lines 14-23; page 17, lines 14-20 and Figures 1C-1L); providing a loan closing team (page 7, lines 20-25; page 8, lines 27-30; page 10, lines 6-14; page 11, line 20 through page 12, line 4; page 13, lines 9-19; page 14, lines 14-24; page 15, lines 18-27; page 16, lines 24-30; page 17, lines 21-27 and Figures 1C-1L); partnering with third-party service providers page 7, lines 20-25

and 26-30; page 9, lines 8-12; page 10, lines 25-27; page 12, lines 19-23; page 14, lines 4-6; page 16, lines 9-12; page 17, lines 8-11; and Figures 1C-1L); said loan production team, closing team, and said third-party service providers executing tasks in parallel; and closing the loan in under 1080 hours (Figures 1C-1L illustrate the days and concurrent tasks).

Claim 16 recites the method of Claim 15 wherein the step of closing the loan in under 1080 hours comprises closing the loan in under 240 hours (Figures 1C-1L illustrate the days and concurrent tasks).

Claim 17 recites the method of Claim 1 wherein the step of partnering third-party service providers comprises partnering with an engineering company (page 10, lines 19-25 and Figures 1C-1L).

Claim 18 recites the method of Claim 15 wherein the step of partnering with a third-party service provider comprises establishing a communication link with said third-party service provider to enable said third-party service provider to receive said loan information within 24 hours (page 9, lines 4-11).

Claim 19 recites the method of Claim 15 further comprising the step of said loan production team reviewing appraisal, environmental, and engineering information (page 9, lines 4-11).

Claim 20 recites the method of Claim 15 further comprising the step of said loan closing team drafting a loan document (page 16, lines 24-30).

Claim 21 recites the method of Claim 15 wherein the step of partnering with a third-party service provider comprises integrating a third-party service party into the loan process (page 7, lines 20-25 and 26-30; page 9, lines 8-12; page 10, lines 25-27; page 12, lines 19-23; page 14, lines 4-6; page 16, lines 9-12; page 17 lines 8-11; and Figures 1C-1L).

Claim 22 recites a method of processing a commercial loan comprising the steps of: compiling borrower information (page 3, lines 15-30); compiling lender information (page 3, through page 5); providing a selection of applicable loan programs (Page 3, lines 15-30); entering an expedited loan process (page 5, lines 14-20 and Figures 1A and 1B); generating a signed loan application by a production team (page 3 through page 5); generating a loan document by a closing team (page 16, lines 24-30); clearing title through a title company (Figures 1C-1L); generating an appraisal with third-party services (page 11, lines 20-30 Figures 1C-1L); operating said production team, closing team, title company, and third-party services in parallel to process the commercial loan; and closing the commercial loan (Figures 1C-1L illustrate the days and concurrent tasks).

Claim 23 recites the method of Claim 22 wherein the step of closing the commercial loan comprises closing the commercial loan in under 240 hours (Figures 1C-1L illustrate the days and concurrent tasks).

Claim 24 recites the method of processing a commercial loan (page 2 lines 18 through page 3, line 8; page 3, lines 15- 18; Figures 1A-1L) comprising the steps of: compiling borrower information (page 3, lines 15-30); compiling lender information page 4, lines 5-14); providing a selection of applicable loan programs (pages 3 through page 5); entering an expedited loan process (page 5, lines 14-20 and Figures 1A and 1B); generating a signed loan application by a production team pages 3-5 and Figure 1A; generating a loan document by a closing team (page 16 lines 24-30); clearing title through a title company; generating an appraisal with third-party services (Figures 1C-1L); operating said production team, closing team, title company, and third-party services in parallel to process the commercial loan; and closing the commercial loan (Figures 1C-1L illustrate the days and concurrent tasks).

VI. ISSUES

Whether Claims 1-24 are unpatentable over U.S. Patent No. 6,611,816 to Lebda in view of U.S. Patent No. 5,870,721 to Norris.

VII. GROUPING OF CLAIMS

General Motors groups the claims as follows for this Appeal. Claims 1, 5, 7, 22, and 24 comprise a first group, Claims 8-14 comprises a second group, Claims 15, 16, 18, 19, 20, and 21 comprise a third group, Claims 2, 3, and 17 comprise a fourth group, and Claim 23 comprises a fifth group. Claim groups one through five are separately patentable. Group two differs from groups one and three through five, in that group two includes time limitations. Group three differs from groups one, two, four and five, in that group three includes limitations for selecting an expedited process and time limitations. Group four differs from groups one through three and group five, in that group three includes limitations for partnering with a third parties such as an engineering firm and title company. Groups one through five do not stand or fall together.

VIII. ARGUMENT

A. THE SCOPE AND CONTENT OF THE PRIOR ART: CLAIM REJECTIONS UNDER 35 U.S.C §103

On page 2 of the Final Office Action of March 9, 2004, the Examiner rejected Claims 1-24 under 35 USC §103 as being unpatentable over Lebda in view of Norris.

1. Lebda

a. Lebda generally discloses an electronic credit application process.

b. Lebda does not teach or suggest the present claimed invention.

In the Final Office Action, the Examiner rejected Claims 1-24 as being unpatentable over Lebda in view of Norris. Lebda discloses coordinating an electronic credit application and filtering out loan application that a lending institution does not want, as disclosed in the abstract and column 2, lines 1-25. The Examiner in the Final Office Action recites multiple rejections but fails to tie the rejections to specific claim limitations in the present claims at issue. With reference to Claims 1, 8-14, 15, 19, 20, 22 and 24, Lebda is silent with respect to providing a loan production team, a loan closing team, partnering with a third party information provider, and concurrently executing tasks by the third party service provider, loan production team, and loan closing team to close the loan. With reference to Claims 2 and 14, Lebda is silent with respect to partnering with a title company. With reference to Claim 3, is silent with respect to partnering with an engineering company. With reference to Claims 4, 8, 15, 16, 18, and 23, Lebda is silent with respect to any time limitations in the loan process. With reference to Claims 15, 22, and 24, Lebda is silent with respect to selecting an expedited process based on borrower input. With reference to Claim 21, is silent with respect to integrating a third party service into the loan process.

2. Lebda & Norris

a. In general Norris discloses an automatic loan processing method.

b. Lebda and Norris, singly or in combination, do not teach or suggest the present claimed invention.

Applicants assert that Lebda and Norris, singly or in combination, do not teach or suggest the present invention. As stated previously in this brief, the Examiner fails to tie the rejections to specific claim limitations in the present claims at issue. With reference to Claims 1, 8-14, 15, 19, 20, 22 and 24, Lebda and Norris are silent with respect to providing a loan production team, a loan closing team, partnering with a third party information provider, and concurrently executing

tasks by the third party service provider, loan production team, and loan closing team to close the loan. With reference to Claims 2 and 14, Lebda and Norris are silent with respect to partnering with a title company. With reference to Claim 3, Lebda and Norris are silent with respect to partnering with an engineering company. With reference to Claims 4, 8, 15, 16, 18, and 23, Lebda and Norris are silent with respect to any time limitations in the loan process. With reference to Claims 15, 22, and 24, Lebda and Norris are silent with respect to selecting an expedited process based on borrower input. With reference to Claim 21, Lebda and Norris are silent with respect to integrating a third party service into the loan process.

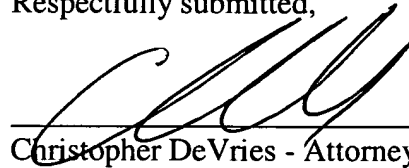
The Examiner further stated on page 4 of the Final Office Action Norris teaches partnering with companies and that is a clear subset of this teaching that one of the partners could be an engineering company. No greater words of speculation could have been written. The Examiner is practicing improper hindsight reconstruction, as there is no teaching or motivation to suggest the claims of the present invention. Applicants object to any notion that Lebda and Norris teaches or suggests the present invention and assert that the Examiner's statements are highly speculative and are not supported by prior art. A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of the invention to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field... Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of hindsight syndrome wherein that which only the invention taught is used against its teacher. *In Re Kotzab*, 217 F.3d 1365. The Examiner has fallen victim to hindsight reconstruction and has also ignored the elements of the claimed invention and failed to explain how and why the claimed subject matter is rendered unpatentable over the prior art and point out where each of the specific limitations recited in the rejected claims is found in the prior art relied on.

Applicants have included in the response dated January 6, 2003, that: If the Examiner relies on personal knowledge that the apparatus of the present invention is obvious, Applicants respectfully request support for this assertion in the form of an affidavit that shall be subject to contradiction or explanation by the affidavits of the Applicants and other persons under 37 CFR 1.104(d)(2). The Examiner has provided no such affidavit.

SUMMARY

Lebda and Norris, singly or in combination do not teach or suggest the present claimed invention. The Examiner has failed to explain how and why the claimed subject matter is rendered unpatentable over the prior art and point out where each of the specific limitations recited in the rejected claims is found in the prior art relied on. Applicants therefore request allowance of Claims 1-24

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. DeVries', is written over a horizontal line.

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Appendix A

1. (original) A method for processing a loan comprising the steps of:
partnering with a third-party service provider;
providing a loan production team;
providing a loan closing team;
gathering loan information on-line, said loan information provided to said third-party service provider, said loan production team, and said loan closing team; and
concurrently executing tasks by said third-party service providers, said loan production team, and said loan closing team to close the loan.
2. (original) The method of Claim 1 wherein the step of partnering third-party service providers comprises partnering with a title company.
3. (original) The method of Claim 1 wherein the step of partnering third-party service providers comprises partnering with an engineering company.
4. (original) The method of Claim 1 wherein the step of partnering with a third-party service provider comprises establishing a communication link with said third-party service provider to enable said third-party service provider to receive said loan information within 24 hours.
5. (original) The method of Claim 1 further comprising the step of said loan production team reviewing appraisal, environmental, and engineering information.
6. (original) The method of Claim 1 further comprising the step of said closing team drafting a loan document.

7. (original) The method of Claim 1 wherein the step of gathering loan information on-line comprises providing a web site for borrowers and brokers to access a loan application.
8. (original) A method of underwriting a commercial loan comprising:
accessing borrower loan information;
accessing lender loan information;
providing a signed loan application in under 72 hours using said borrower and lender loan information;
generating an appraisal in under 96 hours;
evaluating title and credit of said borrower in under 96 hours; and
closing said loan in under 240 hours.
9. (original) The method of Claim 8 wherein said step of accessing borrower information is done via the internet.
10. (original) The method of Claim 8 wherein said step of providing a signed loan application is executed by a production team.
11. (original) The method of Claim 10 wherein said step of evaluating said title and credit of said borrower is executed by a production team.
12. (original) The method of Claim 11 further comprising said closing and production teams executing tasks in parallel.
13. (original) The method of Claim 12 further comprising the step of partnering third-party service providers to execute tasks in parallel with said production and closing teams.
14. (original) The method of Claim 13 wherein said third-party service providers comprise at least a title company.

15. (original) A method of online loan processing comprising:
providing a website to compile borrower loan information and interact with said borrower;
providing a selection of applicable loan programs based on said borrower information;
selecting an expedited process based on said borrower input;
reviewing a loan inquiry;
providing a loan production team;
providing a loan closing team;
partnering with third-party service providers;
said loan production team, closing team, and said third-party service providers executing tasks in parallel; and
closing the loan in under 1080 hours.

16. (original) The method of Claim 15 wherein the step of closing the loan in under 1080 hours comprises closing the loan in under 240 hours.

17. (original) The method of Claim 1 wherein the step of partnering third-party service providers comprises partnering with an engineering company.

18. (original) The method of Claim 15 wherein the step of partnering with a third-party service provider comprises establishing a communication link with said third-party service provider to enable said third-party service provider to receive said loan information within 24 hours.

19. (original) The method of Claim 15 further comprising the step of said loan production team reviewing appraisal, environmental, and engineering information.

20. (original) The method of Claim 15 further comprising the step of said loan closing team drafting a loan document.

21. (original) The method of Claim 15 wherein the step of partnering with a third-party service provider comprises integrating a third-party service party into the loan process.

22. (original) A method of processing a commercial loan comprising the steps of:
compiling borrower information;
compiling lender information;
providing a selection of applicable loan programs;
entering an expedited loan process;
generating a signed loan application by a production team;
generating a loan document by a closing team;
clearing title through a title company;
generating an appraisal with third-party services;
operating said production team, closing team, title company, and third-party services in parallel to process the commercial loan; and
closing the commercial loan.

23. (original) The method of Claim 22 wherein the step of closing the commercial loan comprises closing the commercial loan in under 240 hours.

24. (original) An method of processing a commercial loan comprising the steps of:
compiling borrower information;
compiling lender information;
providing a selection of applicable loan programs;
entering an expedited loan process;
generating a signed loan application by a production team;
generating a loan document by a closing team;
clearing title through a title company;
generating an appraisal with third-party services;

operating said production team, closing team, title company, and third-party services in parallel to process the commercial loan; and
closing the commercial loan.